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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,977	03/22/2004	Kevin T. Carle	MS1-1925US	2251
22801 7590 09/02/2009 LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201				
EXAMINER TAYLOR, JOSHUA D				
ART UNIT		PAPER NUMBER		
2426				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary

Application No.

10/806,977

Applicant(s)

CARLE ET AL.

Examiner

JOSHUA TAYLOR

Art Unit

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 18-21, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16, 18-21, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered June 2, 2009 for the patent application 10/806,977 filed on March 22, 2004.
2. The Non-Final Rejection of March 2, 2009 is fully incorporated into this Final Office Action by reference.

Status of Claims

3. Claims 16, 18-21 and 30-31 are pending. Claims 1-15, 17 and 22-29 have been canceled by Applicant.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 30 recites the limitation "the network" in line 4. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deshpande et al. (Pub. No.: US 2005/0108768) in view of Pham et al. (Pat. No.: US 7,143,288) and Durden et al. (Pat. No.: US 7,380,258), and further in view of Gold et al. (Pub. No.: US 2004/0059735).

Examiner's Note (EN): ¶12. below applies.

Regarding claim 16, Deshpande discloses **a method comprising: receiving a first request for configuration information associated with the client device from the client device at a first configuration server, each time the client device is to perform a task which requires application of the configuration information associated with the client device (paragraph [0019]); communicating the requested configuration information to the client device from the first configuration server (Fig. 4, paragraph [0042]).** However, although Deshpande discloses using a protocol such as a network file system (NFS), which uses client identification information, Deshpande does not explicitly disclose **receiving an identifier from a client device at the first configuration server, nor identifying the requested configuration information associated with the client device based on the received identifier.** However, in

analogous art, Pham discloses that NFS requests can securely transport user identification to a server (column 10, lines 18-26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include communicating a user identification associated with the client device of Deshpande to the server. This would have produced predictable and desirable results, because it would ensure that the server knew the identity of the client with which it was interfacing.

Although Deshpande discloses that a television can utilize this method, neither Deshpande nor Pham explicitly disclose **communicating video data to the client device for display on a display device**. However, in analogous art, Durden discloses that a single transmission facility, i.e. server, can supply a client with a variety of data, such as broadcast data, video data, EPG data, and program data (Fig. 1, column 5, lines 11-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the server of Deshpande to also supply video data. This would have produced predictable and desirable results, because it would simplify the communication process if the client only had to communicate with one transmission facility for all of their television needs.

Neither Deshpande, Pham, nor Durden explicitly disclose **receiving a second request for configuration information associated with the client device from a second configuration server; and communicating the requested configuration information to the second configuration server from the first configuration server**. However, in analogous art concerning remote storage of information, Gold discloses that a backup server can be used to store redundant data, in order to insure that information or applications that are stored on a remote server may remain accessible to a user at a terminal even if a primary server fails (Figs. 1,

4, 5 and 8, para. [0001]-[0047], specifically para. [0015]-[0018].). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for a second configuration server, i.e. a backup configuration server, to request the information associated with the client device from the first configuration server, as this would insure that said information was stored redundantly, thus allowing continued access to said information by the client device in the case where there was a problem with the first configuration server. This would have produced predictable and desirable results, it that it would lower the probability that the client device would be unable to access necessary information.

Regarding claim 21, Deshpande discloses **one or more computer-readable memories containing a computer program that is executable by a processor** (paragraph [0023]), and the combined teachings as stated above disclose **performing the method recited in claim 16**.

6. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deshpande et al. (Pub. No.: US 2005/0108768) in view of Pham et al. (Pat. No.: US 7,143,288) and Durden et al. (Pat. No.: US 7,380,258), and further in view of Gold et al. (Pub. No.: US 2004/0059735) and Cezeaux (Pub. No.: US 2002/0199184).

Regarding claim 18, the combined teachings as stated above disclose **a method as recited in claim 16**, but do not explicitly disclose **further comprising receiving modified configuration information from the client device at the first configuration server**. However, in analogous art, Cezeaux teaches that a set-top box may maintain no local copy, but rather modify configuration information at the set-top box and then send it to a remote server for

storage (paragraph [0027]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the above teachings to include storing modified configuration information at a remote location. This would have produced a highly desirable result, in that reducing the amount of memory necessary in the set-top box would decrease the initial cost of said set-top box.

Regarding claim 19, **a method as recited in claim 18** is rejected as stated above, and Cezeaux discloses **further comprising storing the modified configuration information at the first configuration server** (paragraph [0027]). This claim is rejected on the same grounds as claim 18.

Regarding claim 20, **a method as recited in claim 18** is rejected as stated above, and Cezeaux discloses **further comprising communicating the modified configuration information to the client device from the first configuration server during subsequent requests for configuration information from the client device** (paragraph [0027]). This claim is rejected on the same grounds as claim 18.

7. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deshpande et al. (Pub. No.: US 2005/0108768) in view of Pham et al. (Pat. No.: US 7,143,288) and Gold et al. (Pub. No.: US 2004/0059735).

Regarding claim 30, Deshpande discloses **a system comprising: a first configuration server** (Fig. 2, element 40); **a plurality of re-locatable client devices, at least one of the re-locatable client devices being in communication with the first configuration server via the**

network (Fig. 2, elements 50 and 60. One of ordinary skill in the art at the time of the invention would have known that a client device as discussed in Deshpande, such as a television, could be relocated from the floor to an entertainment center, or relocated from one room to another.); **and wherein the first configuration server is configured to: store configuration information associated with the re-locatable client devices** (Fig. 2, para. [0032]-[0034], [0037]); **receive a first request for configuration information associated with a first re-locatable client device from the first re-locatable client device; communicate the requested configuration information to the first re-locatable client device;** (Fig. 4, paragraph [0042]). However, although Deshpande discloses using a protocol such as a network file system (NFS), which uses client identification information, Deshpande does not explicitly disclose **each of the re-locatable client devices having an identifier which identifies the re-locatable client device, nor identify the requested configuration information associated with the first re-locatable client device based on the identifier associated with the first re-locatable client device.** However, in analogous art, Pham discloses that NFS requests can securely transport user identification to a server (column 10, lines 18-26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include communicating a user identification associated with the client device of Deshpande to the server. This would have produced predictable and desirable results, because it would ensure that the server knew the identity of the client with which it was interfacing.

Neither Deshpande nor Pham explicitly disclose **a second configuration server in communication with the first configuration server via the network;** wherein the first configuration server is configured to **receive a second request for configuration information**

associated with a second re-locatable client device from the second configuration server (Deshpande discloses more than one re-locatable client device – Fig. 2.); **and communicate the requested configuration information associated with the second re-locatable client device to the second configuration server.** However, in analogous art concerning remote storage of information, Gold discloses that a backup server can be used to store redundant data, in order to insure that information or applications that are stored on a remote server may remain accessible to a user at a terminal even if a primary server fails (Figs. 1, 4, 5 and 8, para. [0001]-[0047], specifically para. [0015]-[0018].). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for a second configuration server, i.e. a backup configuration server, to request the information associated with the client device from the first configuration server, as this would insure that said information was stored redundantly, thus allowing continued access to said information by the client device in the case where there was a problem with the first configuration server. This would have produced predictable and desirable results, it that it would lower the probability that the client device would be unable to access necessary information.

Regarding claim 31, the combined teachings of Deshpande, Pham, and Gold disclose a system as recited in claim 30, and Deshpande discloses **further comprising the second re-locatable client device being in communication with the first configuration server via the network** (Fig. 2).

Response to Arguments

8. Applicant's arguments filed June 2, 2009, with respect to claims 16, 18-21 and 30-31 have been considered but are moot in view of the new grounds of rejection.

Examination Considerations

9. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, 145-48; p 2100-9, c 1, 11-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

10. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

11. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

12. Examiner's Opinion: ¶¶ 9.-11. apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Claims 16, 18-21 and 30-31 are rejected.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571) 270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/
Examiner, Art Unit 2426

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2426
August 27, 2009